#### THE INTERNATIONAL CADMIUM ASSOCIATION

**REGULATORY UPDATE**

**May 28, 2017**[[1]](#footnote-1)

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**FEDERAL ISSUES**

**CAA ISSUES**

**EPA Proposes Delaying Effective Date Of Final Rule Amending RMP For Chemical Facilities**

EPA published a proposed rule on April 3, 2017, that would delay the effective date of the RMP rule amendments to **February 19, 2019**. According to the proposed rule, this would allow EPA time to consider petitions for reconsideration of the final rule and take further regulatory action, which could include proposing and promulgating a rule revising the RMP amendments. Comments on the proposed delay of the effective date were due May 19, 2017. EPA held a public hearing on the proposed rule on April 19, 2017, in Washington, D.C. More information regarding the January 13, 2017, final rule is available in our January 28, 2017, Update.

**TSCA ISSUES**

**Senate Chemistry Caucus Will Support Chemical Sector Priorities**

On March 28, 2017, Senators Chris Coons (D-DE), Shelley Moore Capito (R-WV), Steve Daines (R-MT), and Gary Peters (D-MI) [announced](https://www.coons.senate.gov/newsroom/press-releases/senators-announce-creation-of-new-chemistry-caucus) that they will serve as Co-Chairs of the newly formed Senate Chemistry Caucus. Senators John Boozman (R-AR), Joe Donnelly (D-IN), John Neely Kennedy (R-LA), and Joe Manchin (D-WV) have agreed to join the Caucus. The Senate Chemistry Caucus intends to provide a bipartisan forum for Senators to work together on issues dealing with the science of chemistry, the chemical business sector, their importance to the U.S. economy, and “the central role they play in the creation of innovative products vital to everyday life.” The Caucus will work with their colleagues in the Senate “to underscore the importance of employing sound science to create effective public policy and to promote initiatives that encourage the development of chemical manufacturing and a new generation of chemists in the U.S. through world-class education and research programs.” On March 29, 2017, the Senate Chemistry Caucus and the House Chemistry Caucus hosted a reception and briefing to highlight the positive impact that chemistry has on the economy.

**EPA Holds Public Meeting Concerning Negotiated Rulemaking Committee On CDR Requirements For Inorganic Byproducts**

As reported in our January 28, 2017, Update, EPA is establishing a Negotiated Rulemaking Committee to negotiate a proposed rule that would limit CDR requirements under TSCA Section 8(a), as amended by the Frank. R. Lautenberg Chemical Safety for the 21st Century Act, for manufacturers of any inorganic byproduct chemical substances when such byproduct chemical substances are subsequently recycled, reused, or reprocessed. On May 9-10, 2017, EPA held a public meeting with potential Committee members and the public to exchange information and to discuss the process of negotiated rulemaking. In its December 15, 2016, *Federal Register* notice announcing that it intends to establish a Negotiated Rulemaking Committee, EPA listed parties that it has initially identified as representing interests likely to be significantly affected by a rule, including NAMC, of which ICdA is a member. On January 17, 2017, NAMC submitted a letter to EPA formally requesting that EPA include NAMC as a member of the Negotiated Rulemaking Committee.

**EPA Delays Effective Date Of, Seeks Comment On Draft Guidance For TSCA Section 8(a) Reporting Rule For Nanoscale Materials**

EPA published on May 12, 2017, a [*Federal Register* notice](https://www.federalregister.gov/documents/2017/05/12/2017-09683/chemical-substances-when-manufactured-or-processed-as-nanoscale-materials-tsca-reporting-and) delaying the effective date of the January 12, 2017, rule concerning TSCA Section 8(a) reporting requirements for nanoscale materials from May 12, 2017, to **August 14, 2017**. EPA published a [*Federal Register* notice](https://www.federalregister.gov/documents/2017/05/16/2017-09998/draft-guidance-for-reporting-of-chemical-substances-when-manufactured-or-processed-as-nanoscale) on May 16, 2017, announcing the availability of and requesting public comment on a draft guidance document entitled “[Guidance on EPA’s Section 8(a) Information Gathering Rule on Nanomaterials in Commerce](https://www.epa.gov/sites/production/files/2017-05/documents/draft_nano_section_8a_guidance_5_15_17_for_docket_clean_002.pdf).” The guidance provides answers to questions EPA has received from manufacturers (includes importers) and processors of certain chemical substances when they are manufactured or processed at the nanoscale as described in the January 12, 2017, final rule. The 14-page draft guidance, in the form of questions and answers, addresses questions within the following categories: what chemicals are reportable; who is required to report; information that is to be reported; when is reporting required; general questions; and confidentiality. More information regarding the draft guidance is available in B&C®’s May 16, 2017, memorandum, “[EPA Seeks Comment on Draft Guidance for Nanoscale Materials Reporting Rule](http://www.lawbc.com/regulatory-developments/entry/epa-seeks-comment-on-draft-guidance-for-nanoscale-materials-reporting-rule).” As reported in our May 28, 2015, Update, the supporting materials in the rulemaking docket include a [list of chemical substances that could be nanomaterials](http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OPPT-2010-0572-0025). The 85-page list includes **cadmium** and a number of **cadmium compounds**. EPA will accept comments regarding the draft guidance, but not regarding the rule itself, “which has already been finalized.” Comments are due **June 15, 2017**.

**EPA Submits Final Rule Regarding Prioritizing Chemicals For Risk Evaluation To OMB**

On May 23, 2017, EPA submitted a final rule regarding procedures for prioritizing chemicals for risk evaluation to OMB for review. There is no publicly available information regarding the final rule. As reported in our January 28, 2017, Update, EPA published a proposed rule on January 17, 2017, that describes the processes for identifying potential candidates for prioritization, selecting a candidate, screening that candidate against certain criteria, formally initiating the prioritization process, providing opportunities for public comment, and proposing and preparing final priority designations. More information on the proposed rule is available in B&C’s January 18, 2017, memorandum, “[EPA Proposes Procedures to Prioritize Chemicals for Risk Evaluation under TSCA](http://www.lawbc.com/regulatory-developments/entry/epa-proposes-procedures-to-prioritize-chemicals-for-risk-evaluation-under-t).”

**MINING AND MINERAL ISSUES**

**Senate Democrats Urge SEC To Reissue Rule Requiring Disclosure Of Payments By Resource Extraction Issuers**

On April 4, 2017, several Senate Democrats sent a letter to the SEC urging it to reissue promptly an anti-corruption rule implementing Section 1504 of the Dodd-Frank Act “that is consistent with both Congressional intent and the extractive industry transparency laws in effect in thirty other countries.” The letter commends the SEC for the work undertaken during the rulemaking process that led to the final July 27, 2016, rule, and states that this record must be considered by the SEC in the new rulemaking. The authors agree with a February 2, 2017, letter sent by several Senate Republicans supporting a rule consistent with the international standard and the transparency laws adopted in Europe. The Democrats’ letter states that “aligning the rule with the transparency laws of the EU and Canada is critical to maintaining US leadership on transparency and fulfilling Congress’s statutory directive.” The Senate Republicans claimed that the SEC’s final rule would place U.S. and other SEC-registered companies at a competitive disadvantage because U.S. companies would be required to make disclosures about their payments to host governments even where another country’s laws might prohibit those disclosures. The Senate Democrats note that the July 2016 rule allowed companies to apply for relief from disclosure on a case-by-case basis if a “legitimate problem” arises. As reported in our March 28, 2017, Update, President Trump signed a resolution (H.J. Res. 41) on February 14, 2017, disapproving the SEC’s July 27, 2016, rule regarding the disclosure of payments by resource extraction issuers.

**Executive Order Calls For Review Of Designations Under The Antiquities Act**

On April 26, 2017, President Trump signed an Executive Order, “[Review of Designations Under the Antiquities Act](https://www.whitehouse.gov/the-press-office/2017/04/26/presidential-executive-order-review-designations-under-antiquities-act).” Designations should “appropriately balance the protection of landmarks, structures, and objects against the appropriate use of Federal lands and the effects on surrounding lands and communities.” Under the Executive Order, the Secretary of the Interior will conduct a review of all Presidential designations or expansions of designations under the Antiquities Act made since January 1, 1996, where the designation covers more than 100,000 acres, where the designation after expansion covers more than 100,000 acres, or where the Secretary determines that the designation or expansion was made without adequate public outreach and coordination with relevant stakeholders. An interim report is due within 45 days, and will be provided to Trump, through the OMB Director, the Assistant to the President for Economic Policy, the Assistant to the President for Domestic Policy, and the Chair of the Council on Environmental Quality. The final report is due within 120 days. In an April 26, 2017, [statement](https://democrats-naturalresources.house.gov/media/press-releases/grijalva-on-antiquities-act-order-reviewing-natl-monuments-will-show-what-we-already-know_theyre-popular-and-beneficial), Representative Raul Grijalva (D-AZ), Ranking Member of the House Natural Resources Committee, responded to the Executive Order and stated: “Requiring extensive ‘review’ of monuments while abolishing almost all review of new mining or drilling is evidence of bad faith, however. If this ‘review’ turns out to be a pretext for a smash-and-grab operation designed to destroy a legacy of conservation built over decades, we will fight it all the way.”

**House Committee Passes Bill That Would Repeal Dodd-Frank Requirements Related To Extractive Industries**

On May 4, 2017, the House Financial Service Committee passed the [Financial CHOICE Act](http://financialservices.house.gov/choice/) (H.R. 10), which would “end[] the Dodd-Frank Act’s taxpayer-funded bailouts of large financial institutions and impose[] the toughest penalties in history on those who commit fraud and insider trading.” The bill would repeal certain sections of the Dodd-Frank Act, including Sections 1502, 1503, and 1504, which concern disclosure requirements related to conflict minerals, mine safety, and extractive industries. The [comprehensive summary](https://financialservices.house.gov/UploadedFiles/2017-04-24_Financial_CHOICE_Act_of_2017_Comprehensive_Summary_Final.pdf) of the bill provides the following executive summary of the provisions to “Repeal Specialized Public Company Disclosures for Conflict Minerals, Extractive Industries, and Mine Safety”:

* Title XV of the Dodd-Frank Act imposes a number of overly burdensome disclosure requirements related to conflict minerals, extractive industries, and mine safety that bear no rational relationship to the SEC’s statutory mission to protect investors, maintain fair, orderly, and efficient markets, and promote capital formation. The Financial CHOICE Act repeals those requirements;
* There is overwhelming evidence that Dodd-Frank’s conflict minerals disclosure requirement has done far more harm than good to its intended beneficiaries -- the citizens of the DRC and neighboring Central African countries; and
* Former SEC Chair Mary Jo White, an Obama appointee, conceded the SEC is not the appropriate agency to carry out humanitarian policy. The provisions of Title XV of the Dodd-Frank Act are a prime example of the increasing use of the federal securities laws as a cudgel to force public companies to disclose extraneous political, social, and environmental matters in their periodic filings.

**IRS Publishes Written Determination Regarding Deduction And Recapture Of Certain Mining Exploration Expenditures**

The IRS released on May 5, 2017, a [memorandum](https://www.irs.gov/pub/irs-wd/201718011.pdf) regarding the deduction and recapture of certain mining exploration expenditures. The memorandum includes the following summary of the issues and conclusions:

ISSUES

1. Whether certain expenditures in tax Years 1, 2 and 3 incurred by Taxpayer in connection with a potential Process plant qualify as research and experimental expenditures deductible under § 174(a), or are precluded from being deductible under § 174(d) as exploration expenditures and instead deductible under § 617.

2. Whether the expenditures qualify for the § 41 research credit.

CONCLUSIONS

1. The expenditures incurred by Taxpayer are exploration expenditures under § 174(d) and, thus, are not deductible as research and experimental expenditures under § 174(a). The exploration expenditures are deductible under § 617 if Taxpayer makes an election pursuant to § 617(a)(2) and the regulations thereunder.

2. The expenditures do not qualify for the § 41 research credit.

**Gold King Mine Spill**

***EPA Publishes Guidelines For Regional Offices To Determine Eligible Reimbursements***

EPA [announced](https://www.epa.gov/goldkingmine/water-infrastructure-improvements-nation-wiin-act) on March 16, 2017, that it issued guidelines to its regional offices for determining which Gold King Mine response costs are eligible for reimbursement under the WIIN Act. Response costs eligible for payment include removal and remedial response costs incurred through September 9, 2016, as well as response costs incurred after September 9, 2016, that EPA preapproved. The response costs must also be consistent with the National Oil and Hazardous Substances Pollution Contingency Plan to be eligible for reimbursement. EPA notes that the WIIN Act does not alter other required reimbursement criteria. Reimbursement applications must still include adequate documentation. The WIIN Act provides states, local, and tribal governments a deadline of **June 14, 2017**, for submitting reimbursement claims to EPA for consideration.

**MISCELLANEOUS ISSUES**

**Commerce Department Inquires Whether People’s Republic Of China Should Be Treated As Nonmarket Economy Country**

The Commerce Department published a notice on April 3, 2017, announcing that, as part of the less-than-fair-value investigation of certain aluminum foil from the People’s Republic of China, it is initiating an inquiry into whether the People’s Republic of China should continue to be treated as a nonmarket economy country under the antidumping and countervailing duty laws. As part of this inquiry, the Commerce Department is seeking public comment and information with respect to the factors to be considered under the Tariff Act of 1930, as amended:

1. The extent to which the currency of the foreign country is convertible into the currency of other countries;

2. The extent to which wage rates in the foreign country are determined by free bargaining between labor and management;

3. The extent to which joint ventures or other investments by firms of other foreign countries are permitted in the foreign country;

4. The extent of government ownership or control of the means of production;

5. The extent of government control over allocation of resources and over price and output decisions of enterprises; and

6. Such other factors as the administering authority considers appropriate.

The Commerce Department states that it intends to issue its final determination regarding the nonmarket economy status of the People’s Republic of China prior to the issuance of its preliminary determination in the investigation. Comments were due May 3, 2017.

**EPA Designates Regulatory Reform Officer, Establishes Regulatory Reform Task Force, And Seeks Comment On Its Evaluation Of Existing Regulations**

EPA Administrator Scott Pruitt issued a memorandum on March 24, 2017, regarding President Trump’s February 24, 2017, Executive Order on “Enforcing the Regulatory Reform Agenda.” According to Pruitt’s memorandum, Samantha Dravis, Senior counsel and Associate Administrator for Policy, will be EPA’s Regulatory Reform Officer. Ryan Jackson, Chief of Staff, will serve as Chair of the Regulatory Reform Task Force, which is charged with evaluating existing regulations and making recommendations to Pruitt regarding those that can be repealed, replaced, or modified to make them less burdensome. The Executive Order requires that the Task Force seek input from entities significantly affected by EPA’s regulations, including state, local, and tribal governments, small businesses, consumers, NGOs, and trade associations. The memorandum states that, by May 15, 2017, the Offices of Air and Radiation, Land and Emergency Management, Chemical Safety and Pollution Prevention, Water, Environmental Information, Congressional and Intergovernmental Relations, and Small and Disadvantaged Business Utilization should provide the Regulatory Reform Task Force with recommendations regarding specific rules that should be considered for repeal, replacement, or modification. According to the memorandum, while EPA intends to do some “general outreach,” Pruitt would “like the recommendations from those offices to be informed by consultation with their particular stakeholders.” Specifically, each of these offices should hold a “dedicated public meeting” so that EPA “can listen and learn directly from those impacted by our regulations.” On April 13, 2017, EPA published a *Federal Register* notice seeking input on regulations that may be appropriate for repeal, replacement, or modification. The memorandum states that “EPA values public feedback and will give careful consideration to all input that it receives.” Comments were due May 15, 2017.

**Trump Signs Executive Order On Buy American And Hire American**

President Trump signed an Executive Order on April 18, 2017, on “[Buy American and Hire American](https://www.whitehouse.gov/the-press-office/2017/04/18/presidential-executive-order-buy-american-and-hire-american).” The Executive Order states that every agency “shall scrupulously monitor, enforce, and comply with Buy American Laws, to the extent they apply, and minimize the use of waivers, consistent with applicable law.” Within 150 days, the heads of all agencies shall “develop and propose policies for their agencies to ensure that, to the extent permitted by law, Federal financial assistance awards and Federal procurements maximize the use of materials produced in the United States, including manufactured products; components of manufactured products; and materials such as steel, iron, aluminum, and cement.”

**Executive Order Creates Office Of Trade And Manufacturing Policy**

On April 29, 2017, President Trump signed an Executive Order entitled “[Establishment of Office of Trade and Manufacturing Policy](https://www.whitehouse.gov/the-press-office/2017/05/01/presidential-executive-order-establishment-office-trade-and).” The mission of the Office is to defend and serve American workers and domestic manufacturers while advising the President on policies to increase economic growth, decrease the trade deficit, and strengthen the U.S. manufacturing and defense industrial bases. The Office’s responsibilities will be to:

* Advise the President on innovative strategies and promote trade policies consistent with the President’s stated goals;
* Serve as a liaison between the White House and the Commerce Department and undertake trade-related special projects as requested by the President; and
* Help improve the performance of the executive branch’s domestic procurement and hiring policies, including through the implementation of the policies described in Executive Order 13788 of April 18, 2017 (Buy American and Hire American).

**Trump Signs Executive Order Addressing Trade Agreement Violations And Abuses**

Preside Trump signed an Executive Order on April 29, 2017, on “[Addressing Trade Agreement Violations and Abuses](https://www.whitehouse.gov/the-press-office/2017/05/01/presidential-executive-order-addressing-trade-agreement-violations-and).” According to the Executive Order, it is the policy of the U.S. “to negotiate new trade agreements, investment agreements, and trade relations that benefit American workers and domestic manufacturers, farmers, and ranchers; protect our intellectual property; and encourage domestic research and development.” It is also the policy of the U.S. to renegotiate or terminate any existing trade agreement, investment agreement, or trade relation that, on net, harms the U.S. economy, U.S. businesses, U.S. intellectual property rights and innovation rate, or the American people. The Executive Order calls for comprehensive performance reviews of all bilateral, plurilateral, and multilateral trade agreements and investment agreements to which the U.S. is a party, as well as all trade relations with countries governed by WTO rules and with which the U.S. does not have free trade agreements but with which the U.S. runs significant trade deficits in goods. Each performance review is due within 180 days.

**STATE ISSUES**

***New York***

**Bill Would Create Lists Of Chemicals Of High Concern And Priority For Pet Products; Cadmium Would Be Included**

A.B. 7739 was introduced on May 11, 2017. The bill would amend the environmental conservation law to create a new Title 9 regarding toxic chemicals in pet products. It would create a list of chemicals of high concern, including **cadmium** and **cadmium compounds**. It would also create a list of priority chemicals, which would include **cadmium**. Under the bill, the lists of chemicals of high concern and priority chemicals would be published within 180 days of the effective date. Manufacturers would be required to report pet products that contain intentionally added priority chemicals. Effective **January 1, 2020**, the distribution or sale of pet products containing priority chemicals that have been listed for at least one year would be prohibited.

***Washington***

**Bill Would Require Air Quality Study Of Air Traffic, Including Assessment Of Cadmium Concentration**

H.B. 1171, introduced on February 9, 2017, would require the Department of Commerce to complete a study regarding air quality implications of air traffic at the international airport in Washington with the highest number of total annual departures. The Department of Commerce must report its findings from the study to the appropriate committees of the legislature by **December 1, 2019**. The report must include a summary of findings on the prevalence of ultrafine particulate matter, barium, aluminum, radioactive thorium, **cadmium**, chromium, and ethylene dibromide pollution in areas surrounding and directly impacted by the airport, and a recommendation regarding whether sufficient ultrafine particulate matter, barium, aluminum, radioactive thorium, **cadmium**, chromium, and ethylene dibromide information is available to validate proceeding with a second phase of the study. The bill failed to pass during the regular session. It was reintroduced during the first special session, on April 24, 2017. After failing to pass, it was reintroduced during the second special session, on May 23, 2017.

**INTERNATIONAL ISSUES**

**CHINA**

**Annual Survey Of River And Streams Finds Elevated Levels Of Cadmium In Shellfish**

According to an annual survey [released](http://www.soa.gov.cn/zwgk/hygb/zghyhjzlgb/201703/t20170323_55328.html) by the State Oceanic Administration on March 22, 2017, more than 90 percent of freshwater river and streams that flow into China’s coastal waters failed to meet acceptable national water quality standards in 2016. Approximately 60 percent of shellfish sampled near these outlets failed to meet water quality standards, with elevated levels of arsenic, lead, **cadmium**, and petroleum hydrocarbons detected in many specimens. The survey indicated that 76 percent of estuaries, bays, tidal wetlands, coral reefs, and other marine ecosystems were in an “unhealthy” state.

**China Publishes Draft Standard Concerning Hazardous Chemicals In Consumer Products, Includes Cadmium**

In March 2017, China’s National Institute of Standardization [published](http://www.cnis.gov.cn/wzgg/201703/t20170330_22259.shtml) a draft national standard concerning safety requirements for hazardous chemicals in consumer products. If adopted, the standard would create limit values for 103 chemical substances in consumer products such as toys, textiles, coatings, and furniture. Restricted substances would include heavy metals, including **cadmium**, phthalates, PAHs, PFOS, BPA, and VOCs such as benzene and xylene. The draft standard is based on EU REACH Annex 17 and other Chinese national standards related to consumer products. The draft national standard includes the following information regarding **cadmium**:

| **Safety Requirements** | **Remarks** |
| --- | --- |
| 1. The migration of this substance in soothers for babies and young children should be ≤20 mg/kg | Section 8.4, GB 28482-2012 Safety Requirements of Soothers for Babies and Young Children |
| 2. The migration of this substance in children’s toothbrushes should be ≤75 mg/kg | Clause 4.2.3, GB 30002-2013 Children’s Toothbrushes |
| 3. The content of this substance in fabrics used for shell fabric, lining fabric, and accessories of infants and children’s textile products should be ≤100 mg/kg | Section 4.2, GB 31701-2015 Safety Technical Code for Infants and Children’s Textile Products |
| 4. The content of this substance in children’s footwear should be ≤100 mg/kg | Section 5.3, GB 30585-2014 Safety Technical Specifications for Children’s Footwear |
| 5. The migration of this substance in finger painting pigment should be ≤15 mg/kg, from modelling clay should be ≤50 mg/kg, and from other toys (except finger painting pigment and modelling clay) should be ≤75 mg/kg | Section 8.4, GB 6675.4-2014 Safety of Toys -- Part 4: Migration of Certain Elements |
| 6. The total content of this substance in jewelry should be ≤100 mg/kg; the migration of this substance in children’s jewelry should be ≤75 mg/kg | Section 4.2, GB 28480-2012 Jewelry -- Provision for Limit of Harmful Elements |
| 7. The content of soluble **cadmium** in solvent based woodenware coating and water based woodenware coatings should be ≤75 mg/kg | Chapter 4, GB 18581-2009 Indoor Decorating and Refurbishing Materials -- Limit of Harmful Substances of Solvent Coatings for Woodenware  Clause 4, GB 24410-2009 Indoor Decorating and Refurbishing Materials -- Limit of Harmful Substances of Water Based Woodenware Coatings |
| 8. The amount of this substance dissolving-out from plastic furniture, children’s furniture, and wood based furniture of indoor decorating and refurbishing materials should be ≤75 mg/kg | Chapter 4, GB 18584-2001 Indoor Decorating and Refurbishing Materials -- Limit of Harmful Substances of Wood Based Furniture  Clause 5.2.3, GB 28007-2011 General Technical Requirements for Children’s Furniture;  Chapter 4, GB 28481-2012 Limit of Harmful Substances of Plastic Furniture |
| 9. The content of soluble chromium in interior architectural coatings should be ≤75 mg/kg | Chapter 4, GB 18582-2008 Indoor Decorating and Refurbishing Materials -- Limit of Harmful Substances of Interior Architectural Coatings |
| 10. The content of this substance in polyurethane waterproof coating should be ≤75 mg/kg | Section 5.3, GB/T 19250-2013 Polyurethane Waterproofing Coating |
| 11. The content of this substance in plastic products should be ≤100 mg/kg | REACH Regulation of European Union ((EC) No 1907/2006) |
| 12. The content of this substance in wallpapers should be ≤25 mg/kg | Chapter 4, GB 18585-2001 Indoor Decorating and Refurbishing Materials -- Limit of Harmful Substances of Wallpapers |
| 13. The content of this substance in polyvinyl chloride artificial leather should be ≤75 mg/kg | GB 21550-2008 The Restriction of Hazardous Materials in Polyvinyl Chloride Artificial Leather |
| 14. The main material making up the telecommunication terminal -- including parts that cannot normally be removed -- should contain ≤100 mg/kg of the substance. Nor must it be intentionally added to the metal coating on any parts of the telecommunication terminal | Clause 4.2, GB/T 22727.1-2008 Limits and Methods of Measurement of Certain Hazardous Substances in Telecommunication Product Part 1: Telecommunication Terminal |
| 15. The content of this substance in wallpapers should be ≤25 mg/kg; the soluble **cadmium** content in floor coverings should be ≤20 mg/m2; the soluble lead content in polyvinyl chloride artificial leather should be ≤75 mg/kg; and  16. The content of this substance in zinc manganese dioxide batteries and non-alkaline zinc manganese dioxide batteries should be ≤20 mg/kg or ≤200 mg/kg respectively | Chapter 5, GB 24427-2009 Limitation of Mercury **Cadmium** and Lead Contents for Alkaline and Non-alkaline Zinc Manganese Dioxide Batteries |

**MALAYSIA**

**Malaysia Adopts International Toy Safety Standards**

On October 10, 2016, Malaysia amended its consumer protection safety standards for toys to incorporate 13 international safety standards. Under the amendment, which will take effect **January 1, 2018**, toys available on the Malaysian markets will have to be tested for the presence of phthalates and for maximum acceptable levels for the migration of certain elements such as antimony, arsenic, barium, **cadmium**, chromium, lead, mercury, and selenium from toy materials and toy parts, especially oral contact toys. The incorporated standards include:

* ISO 8124-3: Safety of Toys (Part 3) -- Migration of certain elements; and
* EN 71-3: Safety of Toys (Part 3) -- Migration of certain elements.

**MOH Amends Maximum Levels Of Cadmium Allowed In Ceramic Ware**

On April 3, 2017, MOH [amended](http://fsq.moh.gov.my/v5/wp-content/uploads/2014/10/pua_20170403_PU-A-104.pdf) the food regulations to revise the level of **cadmium** allowed in ceramic ware intended to be used in the preparation, packaging, storage, delivery, or serving of food:

* In item “small hollow-ware,” in column **cadmium**, by substituting for the words “0.20 mg/l” the words “0.5 mg/l”; and
* In item “large hollow-ware,” in column **cadmium**, by substituting for the words “0.20 mg/l” the words “0.25 mg/l.”

The amended regulations took effect April 15, 2017. MOH provided a three-month period for products that have already been shipped. By **July 15, 2017**, importers must attach a certificate of analysis to those containing lead or **cadmium**.

**SOUTH KOREA**

**MOE Proposes Prohibiting 12 Substances, Including Cadmium**

In March 2017, MOE proposed to prohibit 12 substances, including **cadmium**. This will include when the substance is used in a mixture or in its salt form in concentrations of more than 0.1 percent. MOE would prohibit the substances immediately, with the exception of hexavalent chromium compounds in certain applications. These would be allowed a grace period of six months for manufacturers and importers, and 12 months for distributors. Comments were due April 25, 2017.

Further clarification given by our consultant (SHES) for Korea Reach:

In accordance with MoE announcement No. 2017-271, manufacturing, importing, selling, storing, transporting and/or using cadmium for the purpose of metal ornaments are prohibited.

**MOE Plans To Ban Or Limit Use Of Certain Substances, Including Cadmium, In Products Where They Can Be Inhaled**

MOE has announced measures to regulate the use of biocides and other chemicals in products where they can be readily inhaled. MOE will produce a list of permitted biocides by product type for use in sprays, as well as a preliminary review system for substances not included on the list. The standards will apply to spray type products, such as detergents, air fresheners, and deodorants that contain biocides. Antifreezes, washer liquids, moisture repelling agents, candles, and inert fillers are new products of concern that will become subject to regulation by MOE. MOE intends to ban or limit the use of lead, **cadmium**, formaldehyde, aluminum, and other potentially toxic substances in these products.

**TAIWAN**

**Taiwan EPA Begins Consultation Period On Proposed TCSCA Revisions**

Taiwan EPA has begun a [public consultation](http://enews.epa.gov.tw/enews/fact_Newsdetail.asp?InputTime=1060417162031) on proposed changes to the TCSCA. Changes include:

* Coordinating central and local government agencies by establishing a national chemical regulation advisory reporting system;
* Removing Class 4 toxic chemical substances (substances deemed to endanger human health or the environment);
* Introducing a “chemical substances for investigation” category;
* Generating a chemical substances regulation fund to introduce new regulatory fees; and
* Provisions to improve emergency response procedures for toxic chemical incidents.

Comments on the proposed revisions are due **June 16, 2017**.

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Unless otherwise noted, if you have questions about any item summarized above, please call or e-mail Lynn L. Bergeson at (202) 557-3801 or [lbergeson@lawbc.com](mailto:lbergeson@lawbc.com), or Carla N. Hutton at (202) 557-3809 or [chutton@lawbc.com](mailto:chutton@lawbc.com).

## ACRONYMS

**B&C** -- Bergeson & Campbell, P.C.

**BPA** -- Bisphenol A

**CAA** -- Clean Air Act

**CDR** -- Chemical Data Reporting

**CHOICE** -- Creating Hope and Opportunity for Investors, Consumers and Entrepreneurs

**Commerce Department** -- United States Department of Commerce

**DRC** -- Democratic Republic of the Congo

**EPA** -- United States Environmental Protection Agency

**EU** -- European Union

**ICdA** -- International Cadmium Association

**IRS** -- Internal Revenue Service

**mg/kg** -- Milligram Per Kilogram

**mg/m2** -- Milligram Per Square Meter

**MOE** -- Ministry of Environment

**MOH** -- Ministry of Health

**NAMC** -- North American Metals Council

**NGO** -- Non-Governmental Organization

**OMB** -- Office of Management and Budget

**PAH** -- Polycyclic Aromatic Hydrocarbon

**PFOS** -- Perfluorooctane Sulfonate

**REACH** -- Registration, Evaluation, Authorization and Restriction of Chemicals

**RMP** -- Risk Management Program

**SEC** -- Securities and Exchange Commission

**Taiwan EPA** -- Taiwan Environmental Protection Administration

**TCSCA** -- Toxic Chemical Substance Control Act

**TSCA** -- Toxic Substances Control Act

**VOC** -- Volatile Organic Compound

**WIIN** -- Water Infrastructure Improvements for the Nation

**WTO** -- World Trade Organization

1. This Update addresses significant federal, state, and international environmental and occupational safety and health regulatory issues and ongoing advocacy efforts pertinent to the ICdA member companies. A list of acronyms used in this Update is provided. [↑](#footnote-ref-1)